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June 15, 2011

U.S. District Court
District of Columbia

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FILED
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VIA ELECTRONIC FILING

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: ***Canexus Chemicals Canada L.P. v. BNSF Railway Company,***
STB Docket No. FD 35524

Dear Ms. Brown:

Attached for filing in the above-referenced proceeding is BNSF Railway Company's Answer to the Request for an Order Compelling Establishment of Common Carrier Rates filed by Canexus Chemicals Canada. BNSF is also filing today under separate cover a Response to the Board's Order of June 8, 2011 Regarding BNSF's Legal Position and a Request to Refer the Parties' Interchange Dispute to Board Supervised Mediation.

Thank you for your attention to this matter.

Respectfully submitted.



Samuel M. Sipe, Jr.
Counsel for BNSF Railway Company

CC: Counsel for Canexus

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**CANEXUS CHEMICALS
CANADA L.P.**

Complainant,

v.

BNSF RAILWAY COMPANY

Defendant.

Docket No. FD-35524

**BNSF RAILWAY COMPANY'S ANSWER TO REQUEST FOR ORDER COMPELLING
ESTABLISHMENT OF COMMON CARRIER RATES**

BNSF Railway Company ("BNSF") hereby answers the Request for an Order Compelling Establishment of Common Carrier Rates ("Request") filed by Canexus Chemicals Canada, L.P. ("Canexus") in this proceeding.

As to the introductory language on pages 1-2 of the Request, BNSF admits that Canexus seeks an order compelling BNSF to establish rates and service terms for the transportation of chlorine from North Vancouver, British Columbia and Marshall, WA to an interchange with Union Pacific Railroad Company ("UP") in Kansas City, MO, but BNSF denies all other allegations in the introductory section. BNSF specifically denies that Canexus has stated a valid claim for relief, that the requested rates and service terms "are necessary" for the transportation of Canexus's chlorine, and that Canexus is entitled to an order compelling BNSF to establish the requested rates and terms.

BNSF responds to the allegations in each separately numbered paragraph of the Request as follows:

1. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Request and therefore denies those allegations, except that BNSF admits that the chlorine is transported by BNSF for Canexus in specialized rail tank cars supplied by Canexus.

2. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 and therefore denies those allegations, except that BNSF admits that railcars are temporarily stored on or near the tracks of the Washington and Idaho Railway in Belmont, Washington. BNSF further denies the characterization of the storage tracks as a “railcar storage facility.”

3. BNSF admits the allegations in paragraph 3, except that BNSF denies that the Board has jurisdiction over the importation of commodities by rail from Canada into the United States.

4. BNSF admits that the Board has jurisdiction over the Request to the extent the Request pertains to a dispute over the appropriate interchange point for interline traffic between two U.S. rail carriers, but BNSF denies that the Board has jurisdiction over the establishment of common carrier rates and service for chlorine traffic originating in Canada.

5. BNSF admits the allegations in paragraph 5, except that BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding the reasons that Canadian National Railway (“CN”) interchanges traffic with Canadian Pacific Railway (“CP”) and therefore BNSF denies those allegations.

6. BNSF denies the allegations in paragraph 6, except that BNSF admits that it has rail lines that extend from the State of Washington north across the border of the United States and Canada at Blaine, Washington, into Vancouver, British Columbia, where BNSF's line connects with the tracks of CN near Vancouver, and that BNSF receives loaded Canexus railcars from CN at this location for delivery to BNSF-served destinations and interchanges with UP and other railroads in the United States.

7. With respect to the allegations in the first sentence of paragraph 7, BNSF denies the allegations to the extent they relate to transportation provided by BNSF, and BNSF further states that in 2010 Canexus's chlorine was transported on BNSF from North Vancouver and Marshall to interchanges with UP for movement to final destinations in Texas, Illinois and Arkansas pursuant to rates and terms set out in BNSF Price Authority 90096, Item 1063, Revision 11 and Item 1056, Revision 10. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 7 to the extent those allegations relate to transportation provided by UP and therefore BNSF denies those allegations. BNSF admits the allegations in the second sentence of paragraph 7 to the extent they relate to BNSF, but BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations as they relate to UP, and, therefore, BNSF denies those allegations. BNSF denies the allegations in footnote 3 of paragraph 7, except that BNSF admits that the common carrier rates and service terms for the transportation of Canexus's chlorine from the North Vancouver Facility have historically entailed the absorption by BNSF of some of the reciprocal switching charges assessed by CN. BNSF denies the allegations in the third sentence of paragraph 7.

8. BNSF denies the allegations in paragraph 8, except that BNSF admits that it informed Canexus in the fall of 2010 that it intended to establish new common carrier price authorities applicable to Canexus's traffic effective January 1, 2011.

9. BNSF denies the allegations in the first sentence of paragraph 9, except that BNSF admits that Canexus did not use the 2010 BNSF Tariff in 2010 to interchange traffic with UP at Kansas City. BNSF denies the allegations in the second sentence of paragraph 9.

10. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 and therefore denies those allegations.

11. BNSF denies the allegations in the first sentence of paragraph 11, except that BNSF admits that in January 2011, Canexus orally informed BNSF that it desired common carrier rates from North Vancouver and from Marshall to the Kansas City interchange to be used in conjunction with rates Canexus was negotiating with UP for final delivery from that interchange to customers in Texas, Illinois, and Arkansas. As to the second sentence of paragraph 11, BNSF admits that it declined to provide the rates requested by Canexus for interchange with UP at Kansas City and further informed Canexus that it was BNSF's intention to only interchange Canexus's cars of chlorine out of North Vancouver with UP at Portland, Oregon, and to only interchange chlorine cars out of temporary storage near Marshall, Washington with UP at Spokane, Washington.

12. BNSF admits the allegations in paragraph 12, except that BNSF denies the characterization of Canexus's oral and email requests as requests for "non-restricted" rates.

13. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 and therefore denies those allegations.

14. BNSF denies the allegations in the first sentence of paragraph 14, except that BNSF admits that between March 3rd and April 8th, 2011, BNSF was informed of pending contract negotiations between Canexus and UP. BNSF admits the allegations in sentence two of paragraph 14. With respect to the third sentence of paragraph 14, which quotes from correspondence from BNSF to Canexus on April 8, 2011, BNSF admits the correctness of the stated quotation, but denies that the allegations accurately characterize the letter in its entirety. BNSF admits the allegations in sentences four and five of paragraph 14.

15. With respect to the allegations in the first and second sentences of paragraph 15, BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and, therefore, BNSF denies those allegations. BNSF denies the allegations in the third sentence of paragraph 15, except that BNSF admits that it was informed of ongoing contract negotiations between Canexus and UP for contract service from the Kansas City interchange and that BNSF did not change its position and establish common carrier rates from North Vancouver and Marshall for use in combination with the Rule 11 UP rates for the period following June 30, 2011.

16. BNSF denies the allegations in paragraph 16.

17. BNSF denies the allegations in paragraph 17.

18. BNSF denies the allegations in paragraph 18.

CANEXUS' REQUESTED RELIEF

BNSF denies that an order granting any relief sought by Canexus in this proceeding is appropriate.

AFFIRMATIVE DEFENSES

19. BNSF has fulfilled its common carrier obligation to Canexus under 49 U.S.C. § 11101, 49 CFR Part 1300, or any other provision of the governing statute, by establishing rates for movements of Canexus's chlorine from North Vancouver to Portland and from Marshall to Spokane that will allow for interchange with UP at those points and movement via UP to ultimate destinations in Texas, Illinois and Arkansas.

20. The Request fails to state a claim on which relief can be granted because the Board has no jurisdiction over movements originating at North Vancouver, B.C.

21. BNSF has no common carrier obligation to handle traffic originating at North Vancouver, B.C., because that traffic could be handled by CN and/or CP from North Vancouver to destinations in the United States and to interchanges with other railroads in the United States, including UP, without any need for transportation by BNSF.

22. Canexus is estopped from pursuing relief against BNSF, because Canexus failed to make reasonable efforts to persuade or induce UP to agree to interchanges at Portland and Spokane.

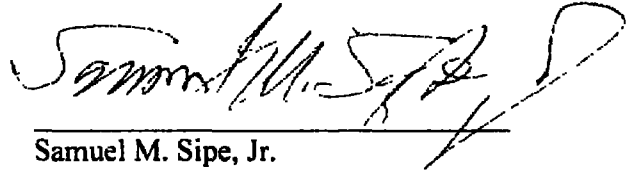
23. Canexus is estopped from pursuing relief against BNSF, because it failed to bring the matter of BNSF's and UP's absence of agreement on an interchange point to the Board for prescription of an interchange.

24. Canexus is estopped from pursuing relief against BNSF, because it failed to make a reasonable effort to obtain alternative routes to those involving BNSF by utilizing CN and/or CP to originate the traffic at North Vancouver, B.C. and to transport it to destination or to another carrier with which to interchange the traffic for transportation to destination.

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June 15, 2011

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel M. Sipe, Jr.", with a large, sweeping flourish at the end.

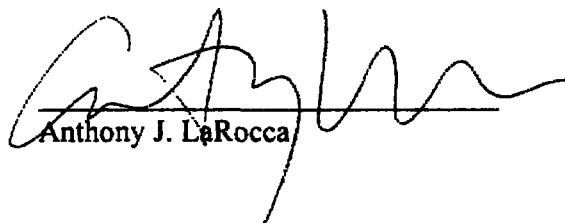
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ATTORNEYS FOR DEFENDANT

Certificate of Service

I hereby certify that on this 15th day of June, 2011, I have served a copy of the foregoing BNSF Railway Company's Answer to Request for Order Compelling Establishment of Common Carrier Rates on the following by hand-delivery:

Thomas W. Wilcox
Edward D. Greenberg
Svetlana Lyubchenko
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